TRANSITIONAL JUSTICE: THE MORAL FOUNDATIONS OF TRIALS AND COMMISSIONS IN SOCIAL AND POLITICAL TRANSFORMATION

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ABSTRACT

This article addresses two primary themes. The first is the general question of war crimes trials versus truth and reconciliation approaches to transitional justice. This is effected through a careful appraisal of the moral and juridical foundations of war crimes tribunals and of truth and reconciliation commissions. The discussion ineluctably leads to a discussion of the moral foundations of peace and the value implications of transitional justice. The second theme of the article focuses on the South African experience with truth and reconciliation, and provides an appraisal of both trial and the Truth and Reconciliation Commission (TRC) processes as components of international and national justice. A comparative perspective is adopted.